

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MARCO BITETTO,

Plaintiff,

v.

1:16-CV-1499
(GTS/CFH)

MR. ADAM D'ANGELO, Partner in Quora, Inc.;
MR. CHARLIE CHEEVER, Partner in Quora, Inc.;
MR. MARC BODNICK, Partner in Quora, Inc.; and
QUORA, INC., Web Based Business,

Defendants.

APPEARANCES:

MARCO BITETTO

Plaintiff, *Pro Se*
4 Fourth Avenue
Rensselaer, New York 12144

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* civil rights action filed by Marco Bitetto (“Plaintiff”) against Quora, Inc., and three of its (“Defendants”) pursuant to Title III of the Americans with Disabilities Act (“ADA”), is United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that Plaintiff’s claim for monetary relief be *sua sponte* dismissed with prejudice pursuant to 28 U.S.C. § 1915(e) but that the remainder of Plaintiff’s Complaint be *sua sponte* dismissed without prejudice and with an opportunity to amend. (Dkt. No. 4.) Plaintiff has not filed an Objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) Instead, Plaintiff has filed a motion to amend his Complaint. (Dkt. No. 5.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein. Plaintiff's claim for monetary relief pursuant to Title III of the ADA is dismissed with prejudice. Furthermore, his motion to amend his Complaint is granted, although the Court expresses no opinion as to whether that Amended Complaint will survive Magistrate Judge Hummel's review of it (or any motion to dismiss filed by Defendants). This action is returned to Magistrate Judge Hummel for his management of pretrial matters, including his review of the pleading sufficiency of the Amended Complaint.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 4) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's claim for monetary relief pursuant to Title III of the ADA is **DISMISSED with prejudice**; and it is further

ORDERED that Plaintiff's motion to amend his Complaint (Dkt. No. 5) is **GRANTED**;

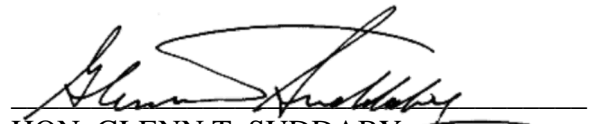
¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

and it is further

ORDERED that Plaintiff's proposed Amended Complaint (Dkt. No. 5, Attach. 2) is **accepted for filing**, and the Clerk of the Court shall separately file and docket that pleading (which is already signed) as Plaintiff's Amended Complaint; and it is further

ORDERED that this action is returned to Magistrate Judge Hummel for his management of pretrial matters, including his review of the pleading sufficiency of the Amended Complaint.

Dated: January 27, 2017
Syracuse, New York



HON. GLENN T. SUDDABY
Chief United States District Judge